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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
KEITH W. COOLEY, DIRECTOR

BILL ANALYSIS

BILL NUMBER: Senate Bill 418, S-1

TOPIC: Public Employees Health Care Pooling

SPONSOR: Senator Mark Jansen, Patricia Birkholz, Cameron Brown, and Wayne Kuipers

CO-SPONSORS: Sen. Gilbert, Hardiman, George, Cropsey, Van Woerkom, Garcia, Pappageorge, and Bishop

COMMITTEE: Committee on Local, Urban, and State Affairs

Analysis Done: May 22, 2007

POSITION

The Office of Financial and Insurance Services is opposed to this legislation.

PROBLEM/BACKGROUND

Government entities—like all employers—have struggled to keep up with the cost of paying for health care for their employees. Legislators have become increasingly concerned that the costs of providing employee health care are rising so fast that they are undercutting the ability of government employers to provide essential services. In recent legislative sessions, there have been bills introduced that would allow school districts join together to pool health care expenses and this session the concept has been expanded to include all state and local public employers in Michigan.

DESCRIPTION OF BILL

Senate Bills 419-421 amend the Michigan School Code, the Municipal Corporations Act, and the Community College Act respectively, to require these groups to provide medical, optical, or dental benefits in accordance with the Public Employees Health Benefit Act.

Senate Bill 418 concerns public employee health benefits generally, the ability of public employers to form Public Employer Pooled Plans, and certain claim reporting requirements.

Public Employer Medical Benefit Plans

A public employer may provide medical, optical, and dental benefits using (a) a self-insured medical benefit plan, (b) by joining other public employers to form a self-insured medical benefit plan pool, (c) by contributing to a trust fund, or (d) by procuring coverage from one or more carriers, individually or with other public employers. Self insured plans, pooled plans and trust funds are not considered to engage in the business of insurance and are not subject to the Insurance Code.

A public employer pooled medical benefit plan must obtain and maintain a certificate of authority from the OFIS commissioner. The commissioner must review the application for all required information and conduct appropriate examinations to issue the certificate of authority within 30 days after the application and required documentation have been filed. The pooled plan will only receive a final certificate of authority once it meets the required reserves of 25% of the aggregate contributions projected to be collected during the first 12 months of operation. Financial statements must be filed with the commissioner. The plan must establish a procedure approved by the commissioner for handling claims for benefits in the event of dissolution of the pooled plan. If the commissioner finds insufficient reserves to pay claims, the commissioner can order the pooled plan to collect from any public employer that is, or has been a member of the pool appropriately proportionately contributions sufficient to restore reserves.

The pooled medical benefit plans will pay an assessment annually to the commissioner to cover the additional costs incurred by OFIS in the examination and regulation of pooled plans.

Trust agreements must be filed with the commissioner and if not disapproved within 30 days after the filing, the agreement will be presumed approved.

Public employers must be furnished with complete claims utilization and cost information with respect to claims and benefits of a carrier that provides 1 or more plans and covers in the aggregate 100 or more of that public employer's employees.

The commissioner is required to gather data to evaluate and compare costs of the public employer medical benefit plans to make available easily accessible comparative ratings and to ensure access to all information concerning cost and performance of Michigan providers. At least annually, the commissioner must prepare for distribution a buyer's guide for public employers that provides information necessary to make informed decisions concerning medical benefit plans.

SUMMARY OF ARGUMENTS

Pro

Some public employers believe that they can realize significant health care cost savings by pooling their health care exposure with other public employers. This legislation will permit

public employers the opportunity to explore whether such opportunities exist without having to comply with the requirements found in the Multiple Employer Welfare Arrangements Act.

Under this legislation, all public employer medical benefit plans have to compile and make available a large amount of data regarding persons covered, claims paid, claims experience, premiums, administrative and service fees, fees or commissions and other information required by the commissioner. This information could help public employers more easily find the actual costs of competing insurance plans, which could result in a decrease in premiums in the public employee's health benefit plans market.

Con

The legislation requires public employer pooled plans to accept any public employer who wishes to join the plan as long as they agree to make the required payments and remain in the pool for 3 years. Public employers exiting a pooled plan would not be able to rejoin that pooled plan for 2 years after exiting. Mandating that these plans guarantee issue could undermine the homogeneity of risk presented, which would reduce the predictability of claims and reduce the likelihood that the pools could adequately price the risk presented.

The commissioner is required to ensure access to information regarding cost and performance of various medical providers not falling under the agency's regulatory umbrella. OFIS does not have expertise in the areas of physician performance information, clinical measures, hospital performance information, or vendors that provide such data. OFIS does not have expertise in the efficacy of case management techniques nor the ability to determine if the techniques are adequate for the care of the patient. Nor does OFIS have the expertise to determine if the public employer members are offering their employees state-of-the-art programs to improve their health either by using accredited programs or programs that reflect national best practices. Because OFIS is a regulatory agency, these duties would be better assigned to a department or agency that is more familiar with the standard used to determine quality of care and treatment.

There are a variety of serious concerns with the regulatory scheme set forth in the legislation, including:

- To avoid confusion, the "Certificate of Authority" should be changed to "registration" or some other name.
- The time frames permitted for OFIS review is inappropriately brief, especially considering that issuance of a certificate of authority includes a 30 day deemer.
- In place of the full amount of the reserve requirement being satisfied by a letter of credit, only a portion of the reserve should be permitted to be satisfied by this means, and any letters of credit must be on a form approved by the Commissioner.
- The description of a Taft Hartley Trust in Section 5 is too broad and needs a clarifying amendment.
- The Commissioner—not an actuary retained by the pool—should set required amounts of excess loss insurance.

- It is unclear why the legislation requires premium contributions, rates and renewals to be filed with the Commissioner if the sponsor intends the pools to be exempt from the insurance code.
- The legislation does not contain rule making authority.
- The regulatory assessment would fail to cover the costs of agency expenditures on behalf of this program, meaning that other regulated entities that fund OFIS will pay the difference. All fees should flow to the Insurance Regulatory Fund.
- Who will be responsible for administering receivership and liquidation of failed pools? Since the pools are specifically exempted from the Insurance Code, these chapters would not apply in the event of financial trouble.

FISCAL/ECONOMIC IMPACT

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services:

Budgetary:	The commissioner will be responsible for solvency issues, gathering and analysis of data. This legislation would directly impact the amount of time and resources that is currently being utilized in other regulatory areas. If this new regulatory program will be assigned to OFIS, a staffing estimate will be generated.
Revenue:	A new, but insufficient revenue stream has been created to fund additional regulatory duties.
Comments:	Based on the OFIS experience with MEWA regulation, the amount of the assessment in this legislation will be inadequate to cover more than a small fraction of the costs OFIS regulation of these pools.

(b) To the Department of Labor and Economic Growth: None

Budgetary:
Revenue:
Comments:

(c) To the State of Michigan: This legislation could produce budget problems for the state if some of the funding issues are not resolved.

Budgetary:
Revenue:
Comments:

(d) To Local Governments within this State:

Comments: Based on the recent experience of a new MEWA composed of local school districts, local governments are not likely to realize actual savings on their health care costs from a pooled plan and may lose money from a pooled plan insolvency.

OTHER STATE DEPARTMENTS

None known.

ANY OTHER PERTINENT INFORMATION

ADMINISTRATIVE RULES IMPACT

The Commissioner has no rulemaking authority under the Public Employees Benefits Act.



Linda A. Watters
Commissioner

5-22-07

Date